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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1942.

—  
No. 979.  
—

DANIEL F. BOONE, *Petitioner,*

v.

MARTHA LIGHTNER BOONE.

—  
**PETITIONER'S REPLY BRIEF.**  
—

STUART H. ROBESON,  
Investment Building,  
Washington, D. C.,  
*Attorney for Petitioner.*



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The respondent fails to discuss or even comment on one of the most important questions involved in this petition, namely, that the petitioner, at the outset of the hearing, was denied the right to introduce any evidence happening prior to the North Carolina decree affecting the character or reputation of the respondent. (R. 31-33.)

The Court of Appeals in its opinion found that the children were now in the District of Columbia and that its Courts may regulate their custody. (R. 82.)

The regulation of the custody of the children is, of course, based upon the fact that the children were actually bona fide residents of the District of Columbia, and had been since October, 1940. (R. 34.)

It would be a strange situation for the Chancellor, acting as *parens patriae* for bona fide resident children, in determining their custody, to feel that he was estopped from going behind a foreign interlocutory decree to determine their custody. Especially is this so when the record discloses that the children were bona fide residents of the District of Columbia, and had been for nine months before said decree.

It is believed that the law is as stated by the Court of Appeals in *Cook v. Cook*, decided on May 17, 1943, being No. 8419 in that Court. It states that (Opn., p. 3):

“The children are now in the District of Columbia and the Court here not only has jurisdiction but owes the duty to protect them and to do the thing which appears to be best for them *without regard to anything any other court has previously done.*” (Italics supplied.)

The Court of Appeals in this decision in effect reversed its decision in the present case. For had the justice below admitted the testimony as to the actions and reputation of the respondent prior to the North Carolina decree the children would not have been awarded to her.

The United States District Court absolutely refused to hear any testimony as to the life, conduct and character of the respondent prior to the North Carolina decree. (R. 26, 29-33.)

The respondent devotes most of her brief to alleged facts before the North Carolina Court, and ignores the most essential points raised by the petitioner as to the proceedings in the United States District Court for the District of Columbia.

Wherefore, it is earnestly prayed that this Court grant the petition for certiorari in order that these innocent children, domiciled in the District of Columbia, can have the courts of their domicile investigate and pass upon the life,

habits and reputation of any person seeking their custody,  
regardless of what any other court may have said.

Respectfully submitted,

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